

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MATTHEW DEROCHA,

Plaintiff,

v.

5:18-CV-1051 (BKS/ATB)

CITY OF SYRACUSE,

Defendant.

Appearances:

Matthew DeRocha
Syracuse, NY
Plaintiff, pro se

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Matthew DeRocha commenced this pro se action under 42 U.S.C. § 1983 on September 4, 2018. (Dkt. No. 1). An amended complaint filed October 22, 2018 is presently before the Court for review. (Dkt. No. 9). This matter was assigned to United States Magistrate Judge Andrew T. Baxter who, on November 27, 2018, issued a Report-Recommendation recommending that the amended complaint be dismissed in its entirety without opportunity to amend and that, to the extent that the complaint is interpreted as raising state law claims of harassment or intentional infliction of emotional distress, the complaint be dismissed without prejudice. (Dkt. No. 12). Magistrate Judge Baxter advised the plaintiff that under 28 U.S.C. § 636(b)(1), he had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No.

12, at 16). No objections to the Report-Recommendation have been filed even though Plaintiff requested, and was granted, two extensions of time to file objections. (Dkt. Nos. 14, 17).

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is


ORDERED that the Report-Recommendation (Dkt. No. 12) is **ADOPTED** in its entirety; and it is further

ORDERED that that the amended complaint (Dkt. No. 9) is **DISMISSED** in its entirety without opportunity to amend; and it is further

ORDERED that to the extent that the amended complaint is interpreted as raising state law claims of harassment or intentional infliction of emotional distress, the amended complaint is **DISMISSED** without prejudice to filing a claim in the appropriate New York State Court; and it is further

ORDERED that the Clerk serve a copy of this Order upon the Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.


Brenda K. Sannes
U.S. District Judge

Dated: March 4, 2019
Syracuse, New York